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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YAKOV KAMEN and KEON ALEXANDER SHIRMAN

Appeal 2010-006338
Application 09/691,792
Technology Center 2400

Before: ROBERT E. NAPPI, KRISTEN L. DROESCH, and JASON V.
MORGAN, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the rejection of claims 10 through 22.

We reverse.

INVENTION

The invention is directed a method that allows a user to change the appearance of an electronic programing guide of broadcast media. See page 9 of Appellants' Specification. Claim 10 is representative of the invention and is reproduced below:

10. A method comprising:
 - receiving, at a broadcast receiving device, electronic programming guide data from a broadcast source;
 - receiving, at the broadcast receiving device, a user request to modify an electronic programming guide configured to display the electronic programming guide data;
 - receiving, at the broadcast receiving device, one or more presentation criteria for making the user requested modification from the broadcast source;
 - determining, at the broadcast receiving device, at least one of the one or more presentation criteria corresponds to the user request; and
 - in response to determining that at least one of the one or more presentation criteria corresponds to the user request, modifying the electronic programming guide using the at least one of the one or more presentation criteria to display an electronic programming guide in accordance with the user request and temporarily changing an object within the electronic programming guide without modifying the layout of the electronic programming guide.

REFERENCES

Beer

US 5,793,368

Aug. 11, 1998

Hendricks	US 5,798,785	Aug. 25, 1998
Nikolovska	US 6,281,898 B1	Aug. 28, 2001

REJECTION AT ISSUE

The Examiner has rejected claims 10 through 22 under 35 U.S.C. § 103(a) as unpatentable over Hendricks in view of Beer. Answer 3-6.¹

ISSUE

Appellants argue on pages 4 and 5 of the Brief² and pages 2 and 3 of the Reply Brief that the Examiner's rejections of independent claims 10, 14, and 18 are in error. Appellants' arguments present us with the issue: did the Examiner err in finding the combination of the references teach the limitation of modifying the electronic program guide with presentation criterion received by the broadcast receiving device from the broadcast source as claimed?³

ANALYSIS

We have reviewed Appellants' arguments in the Briefs, the Examiner's rejection, and the Examiner's response to the Appellants' arguments. We concur with Appellants' conclusion on page 2 of the Reply Brief that the Examiner erred in finding the combination of the references

¹ Throughout this opinion we refer to the Examiner's Answer mailed on January 4, 2010.

² Throughout this opinion we refer to Appellants' Appeal Brief dated November 25, 2009 and Reply Brief dated February 12, 2010.

³ We note Appellants' arguments present additional issues but we do not reach them as this issue is dispositive of the Appeal.

teaches the limitation of modifying the electronic program guide with presentation criterion received by the broadcast receiving device from the broadcast source. Independent claims 10, 14, and 18 each recite limitations directed to modifying the electronic program guide in this manner. The Examiner finds that Beer teaches this limitation and that “one of the presentation criteria for the background color is whether the user selects ‘green’, said green background being downloaded from the broadcast source.” Answer 7. We disagree with the Examiner’s findings. Initially it is unclear as to whether the Examiner is interpreting the background color green, which is displayed, as being the presentation criteria or whether the Examiner is interpreting the logical expression “whether the user selects ‘green’” as the presentation criteria. In either case the Examiner has not shown that either “green” or “whether the user selects ‘green’” is downloaded from the broadcast source. Further, if the Examiner is interpreting the logical expression “whether the user selects ‘green’” as a presentation criteria, the Examiner has not shown that this logical expression is used in modifying the electronic program guide. Thus, we are persuaded of error in the Examiner’s rejection of independent claims 10, 14, and 18. Accordingly, we do not sustain the Examiner’s rejection of claims 10 through 22.

ORDER

The decision of the Examiner to reject claims 10 through 22 is reversed.

REVERSED

ELD